

HEADQUARTERS
UNITED STATES EUROPEAN COMMAND
UNIT 30400
APO AE 09131

EUCOM DIRECTIVE
NUMBER 30-5

15 March 2001

PERSONNEL

ADMINISTRATIVE GRIEVANCE PROCEDURE

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- 1.. **Summary.** To establish an Administrative Grievance Procedure (AGP) and establish local procedures and responsibilities as they pertain to the AGP.
 2. **Applicability.** This directive is applicable to HQ USEUCOM, HQ USEUCOM Separate Staff Activities/Agencies, USEUCOM Security Assistance Organizations (SAO's), the Marshall Center, the Joint Analysis Center (JAC) and other HQ USEUCOM field activities.
 3. **Suggested Improvements.** The proponent of this directive is ECJ1-C. Suggested improvements should be sent to HQ USEUCOM, ATTN: ECJ1-C, CMR 480 Box 1000, APO AE 09128-5000.
 4. **Reference.** DoD Directive 1400.25. "DoD Civilian Personnel Management System".
 5. **General Responsibilities.** The Director for Manpower, Personnel and Administration (ECJ1) will exercise overall staff supervision of the Administrative Grievance System.
 6. **Administrative Grievance Procedure .**
 - a. It is DoD policy, under the reference, that employees be entitled to present grievances and have them considered expeditiously, fairly, and impartially, and resolved as quickly as possible. All persons involved in the dispute resolution process shall be free from restraint, interference, coercion, discrimination, or reprisal.
 - b. **Employee Coverage.** The AGP covers current appropriated fund non-bargaining unit DoD employees. It also covers former DoD employees with respect to matters arising during their previous employment at USEUCOM, provided that a remedy is available consistent with applicable law and regulation. It does not cover non-citizens recruited overseas and appointed to overseas positions or non-appropriated fund (NAF) employees.

This Directive supersedes ED30-5, dated 7 May 1997.

c. **Subject Matter Coverage.** Any employment matter may be grieved under the AGP except for the following:

- (1) The content of established agency regulations and policy;
- (2) Any matter covered by a negotiated grievance procedure or subject to formal review and adjudication by the Merit Systems Protection Board (MSPB), the Office of Personnel Management (OPM), the Federal Labor Relations Authority (FLRA), or the Equal Employment Opportunity Commission (EEOC); or any matter that the employee files under another review or reconsideration procedure, or dispute resolution process within the DoD;
- (3) Non-selection for promotion from a group of properly ranked and certified candidates, or failure to receive a noncompetitive promotion;
- (4) Preliminary notice of an action that, if effected, would be covered under the grievance system or excluded from coverage under (2), above;
- (5) The substance of an employee's performance elements, standards, or work objectives;
- (6) Determinations concerning awards, additional step increases recruitment or relocation bonuses, retention allowances, physician comparability or additional pay allowances, supervisory differentials, critical position pay, or dual compensation waivers;
- (7) Any action taken under a voluntary, formal agreement entered into by an employee involving geographic relocation or return from an overseas assignment;
- (8) Termination of a probationer, return of an employee serving in a supervisory or managerial probation to a non-supervisory or non-managerial position, or separation or termination of an employee during a trial period;
- (9) Termination or expiration of a time-limited excepted appointment, or a term or temporary appointment or promotion on the date specified as a condition of employment at the time the appointment or promotion was made;
- (10) The termination of a temporary or term promotion at a time other than in subsection C (9) above, provided the employee was informed in advance of the temporary nature of the appointment or promotion, and the employee was returned to his or her former position from which temporarily promoted or to a different position of equivalent grade and pay;
- (11) A separation or termination action except as provided in subsection (d.) below;

(12) Any additional exclusions as requested by a DoD Component and approved by the DoD.

d. **CIPMS Employees.** Non-preference eligible employees covered by the Civilian Intelligence Personnel Management System (CIPMS) (Title 10, U.S.C.1590) may grieve their removal, suspension, reduction in grade or pay, or furlough for 30 days or less, if they have completed one year of current continuous service in the same or similar position in DoD under other than a temporary appointment of two years or less. The termination of a CIPMS employee under Section 1590(e) of Title 10, United States Code, is not covered by this procedure. In the case of a grievance over the removal of a CIPMS employee covered by this procedure, an impartial hearing is normally conducted (such hearing may be provided on a reimbursable basis by the Defense Civilian Personnel Service's Office of Complaint Investigations (OCI) at the request of the activity).

e. Informal Dispute Resolution Process.

(1) Employees are encouraged to seek informal resolution of a matter before filing a grievance unless the matter involves an action that was effected through a notice of proposed action, the right to respond to the proposal, and a notice of final decision.

(2) The employee must raise the matter within 15 calendar days of the date of the act or occurrence, or the date the employee became aware of, or reasonably should have become aware of, the act or event. The employee may present a matter of concern regarding a continuing practice or condition at any time.

(3) The employee shall initially present the matter, either orally or in writing to the immediate supervisor. If the matter involves an action taken by, or a relationship with that supervisor, the matter may be presented to the next level of supervision. The employee must clearly advise the supervisor of the basis of the matter and the personal relief sought.

(4) A supervisor must consider the employee's problem and attempt to resolve it within 15 calendar days, and no later than 30 days from the date the problem is first brought to the supervisor's attention, even though the grievance process may not cover it. The use of alternate dispute resolution (ADR) techniques is encouraged as a means of dealing with conflict and seeking solutions satisfactory to all parties. ADR techniques include, but are not limited to the following: facilitation, mediation, fact-finding, and arbitration.

(5) If the employee presents the matter in writing, the informal decision is given in writing. If the matter is presented orally, the decision may be given either orally or in writing. If the decision is oral, the supervisor should prepare and sign a memorandum for the record documenting the issues and decision.

(6) If the problem is not resolved during the informal process, the supervisor shall inform the employee of the time limits for filing a grievance. If the supervisor believes the

matter is not covered by the AGP, the supervisor shall so inform the employee and advise the employee of the appropriate process, if any, for resolving the problem.

f. Grievance Process.

(1) **Identification of Deciding Official:** An employee may file a formal written grievance with the designated local deciding official (LDO) when a problem is not resolved during the informal problem-solving process, or during the ADR process, or where the employee chooses to bypass the informal process and invoke the grievance process.

(a) The LDO must be at an organization level higher than any employee involved in the grievance or any individual having a direct interest in the matter being grieved.

(b) For the purpose of this directive, the Chief of Staff (CoS), HQ USEUCOM will be considered as the head of the activity for all USEUCOM administrative grievances. In all cases, the established organizational chain of command will be observed. The CoS will only be involved when no appropriate/uninvolved authority exists lower in the chain of command.

(c) If the CoS has been personally involved in the events giving rise to the grievance, the DCINC will become the LDO.

(2) **Timelines:** If the employee uses the informal process, the employee must file a grievance no later than 15 days from the conclusion of that process. Where the employee does not use the informal process, but raises the matter initially as a grievance, the employee must present the grievance within 15 days following the act or event that the employee believes created the problem, or within 15 days following the date the employee became aware of (or reasonably should have become aware of) the act or event. The employee may present a grievance regarding a continuing practice or condition at any time.

(3) **Content of Grievance:** An employee's grievance must be signed, dated and contain a sufficiently detailed statement of the specific issue(s) and the specific remedy sought; copies of any documents in the employee's possession related to the grievance; and the name, address, and telephone of the employee's representative, if any. The remedy must be personal to the employee and may not include a request for disciplinary or other action affecting another employee. An employee may not grieve the same matter raised in any other grievance, appeal, complaint, or other dispute resolution process.

(4) Responsibilities of the LDO:

(a) The LDO shall determine whether to join similar or identical grievances; whether to require, and how to conduct an investigation; whether to allow the grievant's requested representative; and how much official time may be granted to the employee and the employee's representative. The deciding official may also designate an impartial individual to examine a grievance and, when authorized, to make recommendations concerning its disposition.

(b) The LDO shall fully and fairly consider the grievance and shall issue a written decision that shall respond to all issues and provide the supporting rationale for the decision. The LDO shall issue the written decision as soon as possible, but normally no later than 60 days from the filing of the grievance. Any requests for extension of time limits, or approvals of such requests should be accomplished in writing to establish a clear audit trail for each administrative grievance file. A grievance decision should be rendered no more than 90 days from the filing of the grievance absent any mutual agreement to extend this time limit to accommodate resolution of the dispute. If the deciding official fails to render a decision within 90 days absent such a mutual agreement, the grievant may request review by the next higher management level, if any.

(c) Wherever possible, the LDO should rule on the merits of the issues raised in the grievance. The deciding official may, however, cancel or temporarily suspend a grievance, or the appropriate portion of a grievance, if: the grievant requests such action; the grievant or grievance is excluded from coverage; the grievant fails to provide sufficient detail to identify clearly the matter being grieved or specify the personal relief requested; the grievant fails to comply with applicable time limits or procedural requirements or requests actions be taken against another employee; or the grievant raises the same matters under another formal dispute resolution process.

(d) The decision of the LDO is final and not subject to further review. However, an employee may request that an individual at the next higher management level, i.e., the DCINC, review a decision to cancel a grievance.

g. **Procedural Assistance.** When an employee files a formal written grievance, the designated LDO will notify the Civilian Personnel Advisory Center immediately. The CPAC is the primary source for procedural assistance and information. When the final decision has been rendered, a file containing the following will be compiled and forwarded to the CPAC:

- (1) The written employee grievance.
- (2) The designation of employee representative (if applicable).
- (3) Requests for extension of time limits (if applicable).
- (4) Approvals/denials of requests for extensions of time limits (if applicable).
- (5) Rejections or cancellations of grievances by LDO's.
- (6) Final decisions by LDO's.
- (7) Any official correspondence directly related to the grievance.

h. Completed files for all formal grievances submitted under the Administrative Grievance System will be maintained by Civilian Personnel Advisory Center for four years from the date of the decision.

FOR THE COMMANDER IN CHIEF:

OFFICIAL:

DANIEL J. PETROSKY
Lieutenant General, USA
Chief of Staff

DAVID R. ELLIS
LTC, USA
Adjutant General

DISTRIBUTION:
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